

Message Text

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ACTION ARA-20

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TAGS: ECON AR

SUBJECT: FOREIGN INVESTMENT LAW: REGISTRATION REQUIREMENTS
FOR FOREIGN INVESTORS

REF: BA-8183 DATE NOV 9, 1973

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SUMMARY

1. PROCEDURES NOW ESTABLISHED FOR REGISTRATION OF FOREIGN INVESTMENT EXISTING IN ARGENTINA PRIOR TO ENACTMENT OF NOVEMBER 1973 FOREIGN INVESTMENT LAW. ALL PERSONS OR CORPORATIONS DOMICILED ABROAD WITH INVESTMENTS IN ARGENTINA, INCLUDING THOSE OWING STOCKS IN LOCAL CORPORATIONS, ARE REQUIRED TO APPLY TO REGISTRY OF FOREIGN INVESTMENTS OF SECRETARIAT OF ECONOMIC PROGRAMMING AND COORDINATION BY SEP 15 FOR REGISTRATION OF THEIR INVESTMENT. SECRETARIAT REQUIRED TO ACT ON APPLICATION WITHIN 180 DAYS. FAILURE TO REQUEST REGISTRATION OR DENIAL OF SAME BY SECRETARIAT WILL RESULT IN LOSS OF RIGHT TO REPATRIATE CAPITAL AND TRANSFER PROFITS ABROAD. END SUMMARY.

2. FIRMS IN ARGENTINA WITH FOREIGN CAPITAL OR OTHER FOREIGN INVESTMENT ARE REQUIRED TO COMPLETE AND SUBMIT TO REGISTRY OF FOREIGN INVESTMENTS BY SEPT 15 AN EXTENSIVE (40 PAGE) APPLICATION FOR REGISTRATION OF THEIR INVESTMENT. DATA REQUESTED ON APPLICATION DEALS PRIMARILY WITH DEGREE OF FOREIGN INVESTMENT OR OWNERSHIP, INCLUDING LISTING OF ALL KNOWN SHAREHOLDERS, AND FINANCIAL AND LIMITED OFFICIAL USE

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OPERATING DATA FOR 1972 AND 1973. MOST COMPANIES HAVE ALREADY

PROVIDED DATA FOR 1971 AND PRIOR YEARS AS PART OF COMPLIANCE WITH PREVIOUS FOREIGN INVESTMENT LAW. EACH APPLICATION MUST BE ACCOMPANIED BY SWORN STATEMENTS FROM EACH KNOWN FOREIGN SHAREHOLDER, OR PERSON HOLDING HIS POWER OF ATTORNEY, STATING THAT ALL INFORMATION CONTAINED IN APPLICATION IS COMPLETE AND CORRECT.

3. SIMPLIFIED REGISTRATION PROCEDURE RECENTLY ESTABLISHED FOR PERSONS DOMICILED ABROAD OWNING STOCK IN ARGENTINE FIRMS WHEN THAT STOCK VALUED AT LESS THAN 1 MILLION PESOS (US\$100,000) AND DOES NOT REPRESENT MORE THAN 5 PERCENT OF OUTSTANDING STOCK IN COMPANY. SUCH PERSONS MAY REQUEST REGISTRATION PERSONALLY, OR THROUGH LOCAL OR FOREIGN FINANCIAL INSTITUTIONS HOLDING SHARES, BY MEANS OF WRITTEN REQUEST CONTAINING NAME AND ADDRESS OF STOCKHOLDER, NAME AND ADDRESS OF FINANCIAL INSTITUTION IF APPLICABLE, NUMBER AND CLASS OF SHARES AND NAME AND ADDRESS OF COMPANY ISSUING SHARES. REQUEST MUST BE IN SPANISH, OR WITH TRANSLATION, SIGNED, WITH SIGNATURE CERTIFIED BY ARGENTINE CONSULAR OFFICIAL, AND SENT TO REGISTRO DE INVERSIONES EXTRANJERAS, SECCION A, SECRETARIA DE PROGRAMACION Y COORDINACION ECONOMICA, HIPOLITO YRIGOYEN 250, BUENOS AIRES. END UNCLASSIFIED.

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4. ORIGINAL JUNE 22 DEADLINE ESTABLISHED FOR SUBMISSION OF REGISTRATION REQUEST POSTPONED TO SEPT 15 BECAUSE OF DELAYS IN PREPARING NECESSARY APPLICATION FORMS. AT THE SAME TIME, THE PERIOD ALLOWED FOR SECRETARIAT CONSIDERATION OF REQUEST EXTENDED FROM 90 TO 180 DAYS FOLLOWING PRESENTATION. OVER 1400 FIRMS UNDERSTOOD TO HAVE REQUESTED APPLICATION FORMS. GIVEN EXPERIENCE WITH SOMEWHAT SIMILAR REGISTRATION PROCEDURE FOR LICENSING AGREEMENTS, 180 DAYS UNLIKELY TO BE SUFFICIENT.

5. SPECIAL REGISTRATION PROCEDURE DESCRIBED PARA #3 ABOVE INSTITUTED AT LAST MINUTE AT REQUEST OF LOCAL BANKS TO SIMPLIFY REGISTRATION OF SMALL FOREIGN-OWNED BLOCKS OF STOCK HELD BY BANKS FOR ACTUAL OWNERS. IN MANY CASES, COMPANY INVOLVED MAY NOT KNOW WHO IN FACT OWNS SHARES. BANKS UNDERSTOOD TO BE ATTEMPTING TO NOTIFY OWNERS OF REGISTRATION REQUIREMENT IN SUCH CASES.

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6. MOST PROVISIONS OF FOREIGN INVESTMENT LAW OTHER THAN REGISTRATION REQUIREMENTS DO NOT AUTOMATICALLY APPLY TO INVESTMENTS MADE PRIOR TO ITS ENACTMENT. LAW DOES PROVIDE, HOWEVER, THAT PROFIT REMITTANCES ABROAD BY EXISTING COMPANIES WITH 20 PERCENT OR MORE FOREIGN CAPITAL WILL BE SUBJECT TO SPECIAL TRANSFER TAX RATE RANGES FROM 20 TO 40 PERCENT DEPENDING ON AMOUNT OF REMITTANCE AS PERCENTAGE OF CAPITAL ELIGIBLE FOR REPATRIATION. UNDER TERMS OF LAW, SUCH COMPANIES MAY ELECT TO

COME UNDER ITS PROVISIONS AND THUS OBTAIN EXEMPTION FROM SPECIAL TAX, BUT VERY FEW COMPANIES TAKING UP THIS OPTION AT THIS TIME. OPTION REQUIRES COMPANIES TO ENTER INTO INVESTMENT CONTRACT WITH GOA, BUT TO DATE GOA HAS GIVEN LITTLE INDICATION OF LIKELY TERMS FOR SUCH CONTRACTS. AS OPTION REMAINS OPEN, AND MOST COMPANIES HAVE LITTLE OR NO CURRENT PROFITS TO REPATRIATE, THERE IS LITTLE INCENTIVE TO TAKE UP OPTION NOW.

7. MAJOR UNCERTAINTY IN REGISTRATION PROCEDURE FOR EXISTING COMPANIES WITH LARGE SHARE OF FOREIGN OWNERSHIP IS AMOUNT OF EACH FIRM'S CAPITAL WHICH SECRETARIAT WILL DETERMINE TO BE ELIGIBLE FOR REPATRIATION WITH RIGHT TO TRANSFER OF PROFITS. THIS, IN TURN, WILL DETERMINE RATE OF SPECIAL TRANSFER TAX ON ANY FUTURE REMITTANCES OF PROFITS. PROBLEM EXPECTED TO CENTER ON (1) TREATMENT OF PREVIOUSLY EARNED PROFITS WHICH HELD OR REINVESTED BY LOCAL COMPANY, IN MANY CASES WITHOUT HAVING BEEN FORMALLY RECOGNIZED IN COMPANY'S ACCOUNTS AS ADDITIONAL NEW CAPITAL, AND (2) TREATMENT OF REVALUATIONS OF ASSETS AND OTHER PROBLEMS ARISING FROM SHIFTS IN EXCHANGE RATES.

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